

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CAPITOL RECORDS, INC.;  
ARISTA RECORDS LLC;  
WARNER BROS. RECORDS  
INC.; SONY BMG MUSIC  
ENTERTAINMENT; and UMG  
RECORDINGS, INC.,

Plaintiffs,

vs.

JENNIFER DAVENPORT,

Defendant.

Case No. 1:06-cv-00319-JMS-BMK

FINDING AND  
RECOMMENDATION THAT  
PLAINTIFFS' APPLICATION FOR  
ENTRY OF DEFAULT JUDGMENT  
BE GRANTED

FINDING AND RECOMMENDATION THAT PLAINTIFFS' APPLICATION  
FOR ENTRY OF DEFAULT JUDGMENT BE GRANTED

Before the Court is Plaintiffs' Application for Entry of Default Judgment. After careful consideration of the application and memorandum in support of the motion, and having received no opposition to this application, the Court hereby FINDS and RECOMMENDS that Plaintiffs' application be GRANTED and that default judgment be entered in favor of the Plaintiffs.

On June 13, 2006, Plaintiffs filed a complaint alleging that Defendant intentionally downloaded and distributed Plaintiffs' copyrighted songs. The complaint and summons were served on June 26, 2006. Defendant failed to answer within 20 days, as required by Rule 12 of the Federal Rules of Civil Procedure. The Clerk entered a default in favor of Plaintiffs on July 31, 2006. On November 9, 2006, Plaintiffs filed the present application for default judgment.

Having been adjudged to be in default, the Court recommends that Plaintiffs be granted the relief they seek.

First, the Court RECOMMENDS that Defendant be ordered to pay Plaintiffs the minimum statutory damages of \$750 per infringed work, as authorized under the Copyright Act (17 U.S.C. § 504(c)(1)), for each of the eight sound recordings listed in Exhibit A to the Complaint, in the total principal sum of Six Thousand Dollars (\$6,000.00).

Second, the Court RECOMMENDS that Defendant shall further be ordered to pay Plaintiffs' costs of suit herein in the amount of Four Hundred Twenty Dollars (\$420.00).

Third, the Court RECOMMENDS that Defendant be enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the following copyrighted sound recordings:

- "Like a Rock," on album "Like a Rock," by artist "Bob Seger" (SR# 76-353);
- "Don't Let Me Get Me," on album "Don't Let Me Get Me (single)," by artist "Pink" (SR# 309-896);
- "I Love Me Some Him," on album "Secrets," by artist "Toni Braxton" (SR# 233-892);

- "Walk of Life," on album "Brothers In Arms," by artist "Dire Straits" (SR# 63-040);
- "Gimme All Your Lovin'," on album "Eliminator," by artist "ZZ Top" (SR# 45-132);
- "If You Had My Love," on album "On The 6," by artist "Jennifer Lopez" (SR# 267-571);
- "With or Without You," on album "The Joshua Tree," by artist "U2" (SR# 78-949);
- "It Wasn't Me," on album "Hot Shot," by artist "Shaggy" (SR# 286-657);

and in any other sound recording, whether now in existence or later created, that is owned or controlled by the Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (i.e., download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings available for distribution to the public, except pursuant to a lawful license or with the express authority of Plaintiffs. The Court RECOMMENDS that Defendant also be ordered to destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server in Defendant's possession, custody, or control

without Plaintiffs' authorization and destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control.

Judgment is hereby entered in favor of Plaintiffs and against Defendant.

IT IS SO ORDERED.



/s/ Barry M. Kurren  
United States Magistrate Judge  
Dated: December 18, 2006

Capitol Records, Inc., et al. v. Jennifer Davenport, Civ.No. 06-00319  
JMS/BMK, FINDING AND RECOMMENDATION THAT PLAINTIFFS'  
APPLICATION FOR ENTRY OF DEFAULT JUDGMENT BE GRANTED.